

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Timothy Blake,**

Petitioner-Appellant.

**v.**

**Polk County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 11-77-0410  
Parcel No. 181/00626-807-962**

On October 27, 2011, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Timothy Blake was self-represented. The Polk County Board of Review was represented by Assistant County Attorney Anastasia Hurn. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Timothy Blake, owner of a residentially classified property located at 3110 SW Arlan Lane, Ankeny, Iowa, appeals from the Polk County Board of Review decision regarding his 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$10,600 in land value and \$72,000 in improvement value for a total assessment of \$82,600.

The subject property is a two-story, interior-unit townhouse built in 2006. The property is located in The Village at White Birch which has 236 units. The improvements include 1056 square feet of above-grade finish and a 528 square-foot, built-in garage. The subject site is 0.012 acre site.

Blake protested his assessment to the Polk County Board of Review. On the protest he

contended his property was assessed for more than the value authorized by law under Iowa Code Section 441.37(1)(b). He asserted the correct value of the subject property was \$71,000.

The Board of Review denied the protest.

Blake then appealed to this Board reasserting his claim and the correct value.

To support his claim of over-assessment to the Board of Review, Blake relied on four listings in his development located at 3171 SW Sharmin Lane, 3035 SW Sharmin Lane, 3140 SW Arlan Lane, and 3133 SW Sharmin Lane. The four properties were listed from \$71,000 to \$75,000; however, three out of the four were known to be properties that are being sold by banks as the result of foreclosure. In regards to the circumstances of the fourth property (3140 SW Arlan Lane), Blake stated as “near as I can determine it isn’t a distressed sale.” Blake acknowledged he did not inquire with the listing agent or anyone related to this property to determine why it was listed similarly in price to foreclosed properties.

In arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). We note that while these are list prices only, not sales prices, listings can be considered as market evidence. However, the properties are listed as the result of a foreclosure making them abnormal.

Blake interprets the code by focusing on the “or” and asserting that such properties can be considered if they are adjusted. We agree. However, Blake did not make any adjustments to these properties and as such they are considered unadjusted and abnormal.

Blake presented one side of an email string between himself and the Polk County Assessor’s office. There are two emails, one dated July 21, 2010, and one dated July 26. Both are from Blake. Based on the emails, it is apparent the Assessor’s office responded. However, Blake did not offer those responses as evidence. We give this evidence limited consideration because it lacked the responses to

the questions Blake posed. Blake's primary point in the emails he sent to the Assessor's office was in regards to the special assessment of \$4275 for each unit, which he believes impacts the value of the properties beyond what the assessments reflect.

Blake explained there are structural and drainage issues with the headers of the garages on the units in the subject's development. As a result of these issues, the development has enacted a special assessment of \$4275 per unit to pay for the repairs. Blake testified the assessment took effect July 1, 2010, and that after that date units could not be sold until the assessment was paid in full.

In a four-page, undated letter to Assistant Polk County Attorney David Hibbard, Blake asserts "Mr. Colgrove<sup>1</sup> states 'Repaired units are assessed approximately \$3200 more than unrepaired units...'" Blake's letter to Hibbard appears to reference in part, the Board of Review's appraiser analysis which states "repaired units are assessed approximately \$3200 more than the unrepaired units. Office comps consist of four units that sold prior to repairs and are not considered distress sales. Indicated value of these comps is \$88,110." The 2011 assessed value of the subject unit is \$82,600. This information was the basis of the Board of Reviews denial of Blake's protest.

However, Blake asserts the four comps the Board relied on were "repaired" because they could not have been sold unless the special assessment was paid in full. He concludes in his letter that since these comparables were "repaired" (their assessments paid in full), the fair market value of an "un-repaired" (assessment not paid off) unit would be \$4275 lower than the \$88,110; or \$83,835.

However, in this scenario, Blake seems to be assuming the assessment was paid by the seller, which is unknown. In that scenario the cost of the assessment would likely be deducted from the final sales price. However, it is also possible the buyer paid for the cost of the assessment. In that scenario it may need to be added to the sales price. Depending on whether the buyer or seller paid for the assessment it would reasonably impact the sales price of the property. There is no evidence in the

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<sup>1</sup> Rich Colgrove is an appraiser with the Polk County Assessor's office.

record for any of the sales to denote which party was responsible for paying off the assessment prior to closing. However, regardless of how Blake asserts the math should be calculated, we note it still results in a value higher than his assessment.

The four comparables considered by the Board of Review are located at 3139 SW Sharmin Lane, 3010 SW Arlan Lane, 3007 SW Arlan Lane, and 3175 SW Arlan Lane.

Blake raised concerns about 3007 SW Arlan Lane selected by the Assessor's office, stating it was better than his unit because it does not have a neighbor to the rear and had a deck. Blake's unit is an interior unit which has three attached neighbors and no deck or patio areas. We agree, without adjustments for these differences, this unit would not be as comparable to Blake's unit. We note the record shows the assessor did make adjustments for quality and deck for this property compared to the subject property.

The remaining three properties considered by the Board of Review sold between July and November 2010. The sales prices were from \$84,200 to \$89,900. All three of these properties appear to be similar interior units like the subject. In his letter to Hibbard, Blake asserts these properties need to have \$4275 deducted from their sales prices to reflect comparison to an "unrepaired" unit. However, Blake testified that he did not confirm with any parties, in any of the transactions, as to who paid the special assessment. As previously noted, depending on if the buyer or seller paid the special assessment as part of the sale, the cost could be deducted *or* added. Blake appears to simply assume the seller paid for the assessment in addition to the purchase price. We can not make this assumption.

In his testimony to this Board, Blake asserted the Assessor's office adjusted units in the development by \$3200 based upon being "repaired or not repaired." The appraiser's analysis simply notes repaired units are assessed \$3200 higher than unrepaired units. It would seem logical that if the properties are "assessed" differently an adjustment is applied to reflect this difference. However, we can not find in the record where the Assessor's office actually made this adjustment.

Blake testified he believed the sale at 3014 SW Arlan Lane is a sale which should have been considered. Blake provided a property record print-out of this sale, which sold in July 2010 for \$82,500. It is a similar interior unit like the subject property. Blake asserted the cost to repair 3014 SW Arlan was included in the sales price. However, he again testified he did not verify the sale information with any parties in the transaction. We find this sale supports Blake's assessment of \$82,600.

Blake also referenced a listing at 3140 SW Arlan, which is similar to his interior unit. This property is currently listed for \$75,000. Blake asserts this is not a foreclosure. However, there has been no verification with the listing agent regarding this property.

Lastly, Blake provided a list from the Assessor's office web-site of twenty three sales<sup>2</sup> in the subject development which occurred between July 2010 and June 2011. He denotes eight of the sales as "normal," one as a family sale, and the remaining fourteen as foreclosures. The eight sales noted as "normal" transactions had sales prices ranging from \$82,500 to \$105,500, with a median of \$91,950. The fourteen sales noted by Blake as "foreclosures" have sales prices ranging from \$65,000 to \$122,830, and a median of \$81,500. While this information indicates a clear trend of foreclosures in the subject's development, the sales which were noted by Blake as "normal" transactions had a difference of nearly \$10,500 between their median sale prices and those of foreclosed properties. When comparing the average sale prices of normal and foreclosed sales in the subject's development, the difference drops slightly to roughly \$6,000, with normal properties selling higher on average.

We further note that of the eight normal sales, only four sold in 2010. These sales ranged from \$82,500 and \$89,900, and had a median sales price of \$86,350. Knowing nothing else about these properties, these sales indicate the subject property is not over-assessed.

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<sup>2</sup> There are thirty properties listed, however six of the properties are not located in the subject's development and not considered as part of Blake's analysis.

This Board requested Blake to research the properties he submitted on Exhibit 13 and provide information as to whether the assessments had been paid. Blake provided this information, as well as a two-page letter and a listing of an additional property. We do not accept the letter or listing as additional evidence and it is given no consideration.

The information provided by Blake at the request of this Board does not provide further understanding as to who (the buyer or seller) paid for the assessments involved with the transactions noted on Exhibit 13. Without this information it is unclear if, or how, these sales may need to be adjusted. As such, we give it limited consideration.

The Board of Review did not offer any additional evidence.

Based upon the foregoing, we find Blake has failed to provide sufficient evidence to support a claim of over-assessment.

### ***Conclusions of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Blake offered four listings, but three out of the four are known to be foreclosure sales. The fourth is unknown. Blake additionally asserts the assessments do not correctly consider special assessments for structural and drainage issues, but there is insufficient evidence to support this claim.

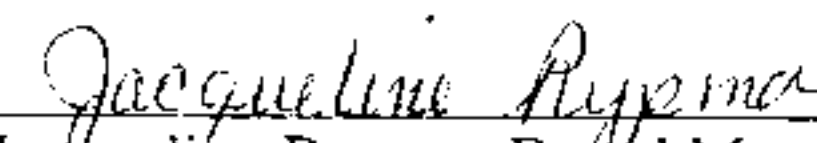
We therefore affirm the assessment of Timothy Blake's property as determined by the Polk County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Timothy Blake's property located at 3110 SW Arlan Lane, Ankeny, Iowa, of \$82,600, as of January 1, 2011, set by Polk County Board of Review, is affirmed.

Dated this 16 day of December, 2011

  
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Karen Oberman, Presiding Officer

  
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Richard Stradley, Board Member

  
\_\_\_\_\_  
Jacqueline Rypma, Board Member

Cc:

Timothy Blake  
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APPELLANT

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ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-14</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	